

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA,	:	99 Cr. 0367 (DLC)
	:	
-v-	:	<u>MEMORANDUM OPINION</u>
	:	<u>AND ORDER</u>
ROLAND HEREDIA,	:	
	:	
Defendant.	:	
-----X	:	

APPEARANCES:

For the United States of America:  
Bonnie B. Jonas  
Assistant United States Attorney  
U.S. Attorney's Office, S.D.N.Y.  
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New York, NY 10007

For defendant:  
Richard Bruce Lind  
488 Madison Avenue  
19th Floor  
New York, NY 10022

DENISE COTE, District Judge:

In a letter received on June 21, 2011, defendant Rolando Heredia ("Heredia") inquires regarding the calculation of his release date by the Bureau of Prisons. From information provided by the United States Attorney's Office and the Probation Office of this Court, it appears that Heredia was transferred between federal and state custody on the following dates.

On October 6, 2010, a writ ad prosequendum was issued to bring Heredia into federal custody to answer specifications that he had violated his term of supervised release. Heredia was then in state custody, having been arrested on October 1, 2010. Heredia was brought into federal custody on October 14, 2010.

Following a hearing before this Court, Heredia was found to have violated the terms of his supervised release. He was sentenced on December 10, 2010, principally to 18 months' imprisonment. Heredia was returned to state custody on January 4, 2011. On May 4, Heredia entered a plea of guilty in state court and was sentenced to time served. Heredia was taken into federal custody on May 6, to serve the federal sentence imposed on December 10.

Heredia complains that the Bureau of Prisons has calculated his federal sentence as beginning on May 4, 2011 and ending on August 25, 2012. He contends that his federal sentence should be calculated as beginning no later than October 14, the date he asserts that he came into federal custody.

This Court is without authority to calculate his release date. "The authority to determine when a sentence is deemed to 'commence' under § 3585(a) resides in the Bureau of Prisons, rather than in the sentencing court." United States v. Luna-Reynoso, 258 F.3d 111, 117 (2d Cir. 2001) (citation omitted).

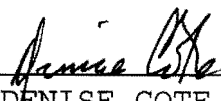
It may be observed, however, that a defendant's federal sentence does not generally commence while the defendant is held in a federal detention facility if he was produced pursuant to a writ of habeas corpus ad prosequendum. United States v. Fermin, 252 F.3d 102, 108 n.10 (2d Cir. 2001).

Accordingly, to the extent that Heredia seeks that this Court intervene with the Bureau of Prisons in the determination of the date his federal prison sentence commenced and will terminate, it is hereby

ORDERED that the June 21, 2011 application is denied.

SO ORDERED:

Dated: New York, New York  
July 1, 2011

  
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DENISE COTE  
United States District Judge